A Call to Use Psychology for Anti-Racist Jury Selection

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Evidence-based jury selection is a critical need because of historical and ongoing racial biases that impede a just process and outcome. As norms about bias, how to measure it, and mitigating its effects have progressed over time, new tools to help carry out this work have become available. This article synergizes the latest relevant psychological literature with the combined wisdom and experience of an interdisciplinary group of experts in racism, law, psychology, mental health, and biomedical science to provide a framework to advance the jury selection process. We describe and provide examples of how jurors should be asked direct questions about their behaviors rather than simply their attitudes. Further, we suggest that racial justice allies should be identified as potential jurors because such individuals will be best able to approach their jury duty in an impartial, antiracist manner.

Clinical Impact Statement
This article supports psychologists and legal professionals in efforts to select an impartial jury by advancing a fuller understanding of racism and how it can impact jurors. As norms about bias and how to measure it and mitigate its effects have progressed over time, new tools to carry out this work have become available. This article represents a synergy of the latest relevant psychological literature to inform best practices in the selection of antiracist jurors to create more just legal outcomes.

Keywords: implicit bias, jury selection, peremptory challenge, racism, voir dire

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On June 12, 1963, Medgar Evers, a 37 year-old Black man, was shot to death in front of his home in Jackson, Mississippi (Hoerl, 2008; U.S. Federal Bureau of Investigation, 1963). Although Bryon de la Beckwith, a self-proclaimed White supremacist and Ku Klux Klan member, was arrested with overwhelming evidence of his guilt, he was set free after the jury failed to reach a unanimous verdict due to two White male jurors who refused to vote for a conviction. This resulted in a hung jury in 1964 and again when he was tried a year later on the same charges. Rather than risking a third trial and having de la Beckwith formally acquitted, prosecutors continued to collect evidence over several decades (including reports of de la Beckwith boasting about his murdering of Evers) before prosecutors finally decided to reopen the case. For this third trial in 1994, a new jury that comprised both White and Black jurors was able to successfully find de la Beckwith guilty of first-degree murder. On its face, the role of a jury is to deliver justice under the law, but this is just one example of how the jury system has been historically corrupted to deliver unjust outcomes that were only later rectified with more inclusive, diverse, justice-seeking representation on the jury.

More recent events, such as the widely publicized killing of Breonna Taylor (Scott, 2020), the murder of George Floyd (Schell et al., 2020), and the highly acclaimed Innocence Project (Morris, 2021) highlight that systemic racism continues to pose major problems for the American legal system, and a lack of justice specifically for people of color (POC) is commonplace (Alexander, 2020; Sundaresh et al., 2020). The rise of nationalism globally has further highlighted the hand-in-glove role of racist systems in perpetuating injustice. This article focuses on the American context specifically in terms of Black–White racism, but the issues discussed are applicable to many other societies and racialized groups as well.

Statistics indicating higher rates of arrest, conviction, lengthier sentences, and barriers to probation for Black Americans serve as evidence that racism substantively impacts lives at all levels of the American criminal justice system (Alexander, 2020; Bronson & Carson, 2019; The Sentencing Project, 2018). Indeed, there was even a time in our recent national history where POC were not allowed to testify against White defendants (Avins, 1966). Therefore, it comes as no surprise that the process of jury selection also has a history of racial bias, a legacy which extends into the present era.

Through "legal exceptions" (loopholes) and a general lack of attention paid to the importance of race and justice, legal teams have gained advantages associated with the selection of jury composition for the purpose of arriving at unjust outcomes for Black Americans and other people of color. Although racial discrimination in jury selection is specifically prohibited by law, meaning that the elimination of a juror based on ethnoracial identity has been ruled to deny a defendant equal protection under the U.S. constitution (*Batson v. Kentucky*, 1986; *Strauder v. West Virginia*, 1880), several caveats to this law distort the meaning and relevance of this protection. In particular, the courts have held that the defendant is not entitled to the inclusion or exclusion of any specific race or ethnicity on their jury. The courts have historically upheld the ruling that Black jurors may not be systematically stricken from pools of potential jurors, albeit with arbitrary guidelines that apply to prosecutors only, solely in criminal proceedings, and only in situations where the defendant and the challenged juror are the same race (*Norris v. Alabama*, 1935). Although the case law is evolving (see the Supreme Court's ruling in *Flowers v. Mississippi*, 2019), results of several independent regional investigations indicate that juror exclusion on the basis of race is still common practice (e.g., DeCamp & DeCamp, 2020; Eisenberg, 2017; Semel et al., 2020). And this occurs despite research that shows that diverse juries consider more case facts, make fewer errors, and deliberate longer than all-White juries (Sommers, 2006). In summary, established case law has not yet resulted in a wide-ranging, equitable, and just culture to support an equitable juror selection process. The problem is so ubiquitous that state courts are now actively engaged in investigating racial bias in the jury selection process (e.g., Balasone, 2020; Washington State Administrative Office of the Courts, 2020).

Purpose of This Study

The authors of this article are an interdisciplinary group of experts in psychology, law, religion, and biomedical science who are concerned about racially biased outcomes in the legal process. Their education, research, and experiences are relevant to the subject matter at hand. Additionally, their varied ethnic backgrounds and nationalities provide a unique perspective on the issue of how to identify racially influenced behavior. The first author is an

expert in biomedical science and was inspired by the problem of biased juries; she also adds perspective to the misconceptions around the relationship between race and genetics and how these misunderstandings affect the psychological mindset of individuals. The senior (last) author, an expert on mental health and racism, was motivated to write this article after receiving multiple requests from attorneys on how to identify racist jurors in civil and criminal cases involving posttraumatic stress disorder (PTSD) connected to experiences of racism. The positive feedback by practicing legal professionals on the relevance and importance of her summary reports served as the inspiration to make this information available to a wider audience. Another author is a student of economics, one is a master of religious studies and Fulbright scholar, and three are doctoral students in psychology. Two authors are attorneys, one a professor of labor and employment law and the other returning to school for doctoral studies in religion. This broad array of experience and scholarship informs this article and the recommendations herein. All authors came together to address the pressing need for more justice and fairness in the legal process (Herr & Anderson, 2005).

The persistence of racial bias in society is mirrored in our justice system but is often invisible to those who are not directly affected. As persons of color, scholars of human behavior, and legal experts, the authors bring both their personal and professional experience to bear in the discussion of how to apply psychology to detect racism to better identify justice-minded jurors. As new measures have become available for practical application, it is important to highlight their utility. Although legal experts are likely to understand that they must eliminate biased jurors from the jury pool, they are less likely to understand the types of questions to ask or how to use validated scales to unearth unconscious or deliberately hidden racial animosity. Psychologists, including the authors, have been developing these tools to more precisely explore this kind of question. Here we discuss the question of how established and new approaches may be used in the service of fairness and equality in the jury process.

We set forth here proposed guidelines based on published research and our expert knowledge of racism so that the arc of history can be bent more firmly toward justice. Key to note is that summa summarum, the inclusion or exclusion of any particular race is far less important than the exclusion of racist jurors and the inclusion of antiracist, fair-

minded jurors, who may be of any race or ethnicity. However, it is worth noting that although scales used to measure racism do not directly promote racial diversity, antiracists are more likely to have diverse and marginalized identities (Williams & Sharif, 2021).

Jury Selection as a Social Science

In a recent case, the Ohio Supreme Court ordered a new trial for an African American man by the name of Glen Bates because of racial bias among jurors (*State v. Bates*, 2020; Trevas, 2020). The court empaneled more than 100 prospective jurors and provided them with questionnaires that included items designed to measure and detect racial bias. In reviewing the responses, Juror No. 31, a White woman, answered "strongly agree" to the statement, "Some races and/or ethnic groups tend to be more violent than others" and also responded in the affirmative to the question, "Is there any racial or ethnic group you do not feel comfortable being around?" In the space provided to elaborate on her answer, Juror No. 31 wrote, "Sometimes Black people." In light of this evidence, it was found that Bates satisfied requirements for earning a new trial, namely owing to the fact that his defense lawyer failed to question or remove a racially biased member of the jury, and that because of discrimination and prejudice, the counsel's performance was objectively unreasonable and was overall deficient.

In understanding how jurors make decisions in trials, there are several demographic, social, and psychological factors at work, including implicit and explicit biases, cultural norms, and group behavior (Bornstein & Greene, 2011). By deepening our understanding of how individuals and groups think, feel, and behave, social scientists and psychologists are ideal resources for determining when a potential juror should be removed. For example, the expertise of psychologists and social scientists has proven invaluable in identifying, through evidence-based means, instances of when a juror will not be impartial due to implicit or explicit racial/ethnic bias, demonstrative history of stereotyping, or other psychological factors (Sommers & Norton, 2008). In addition, a study by Sommers (2006) found that a jury's diverse/inclusive racial composition positively affects decision-making among mock juries. This highlights the advantages of racial heterogeneity for fair group

decision-making, further demonstrating that jury selection should be informed by social science methodology and must be held to standards that are backed by empirical evidence and accepted psychological and social scientific theory.

Different Types of Individual Racism

Racism is a system of beliefs (racial prejudices), practices (racial discrimination), and policies (structural racism) based on race that operates to advantage those with historical power, that is, White people in the United States and most other Western nations (Haeny et al., 2021). In the United States, race is a social caste system used to group people based on shared physical and social features and is ever evolving. Race is a social construct with no biological basis and stems from White supremacy, an ideology that presumes the superiority of White people and inferiority of POC (Benn Torres, 2020; Gravlee, 2009; Haeny et al., 2021; Yudell et al., 2020). Anti-Black racism is pervasive and harmful to Black Americans (e.g., Chae et al., 2015; Duarte et al., 2020; Sundaresh et al., 2020). However, racism and bias can be based not only on skin color but also physical features, style of clothing, country of origin, or speech pattern and dialect.

Utility of Racial Measurement Scales

Prior to the 1970s, U.S.-based psychologists did not think it was possible to measure racism and did not see the utility in doing so, as polite society agreed that Blacks were inferior to Whites (Sniderman & Tetlock, 1986). Only over the past two decades has significant progress been made in the development of scales to measure racism. One of the first to be developed after the landmark Likert scale (Likert, 1932) was the Sears-Kinder scale (Sears & Kinder, 1971), followed by an array of scales of ever-increasing utility and precision. As the understanding of racism became more differentiated, subsequent scales have been developed to examine and quantify the components and types of racism (see Table 1). There are many reasons to measure racism; however, as we become a society that values equality to the degree that we are willing to study our social shame, these scales mark our progress. Although there are now many validated scales to measure racism, there is not widely disseminated knowledge of how to apply these scales outside of a research lab nor which scales to use in real life settings. A confounding factor is that existing scales are tailored for different groups according to their socialization and racialization status. New tools have also been published recently which can be useful for specific types of racism and also to identify racial justice allies. In this article, we highlight the ways in which some of these scales can be applied for the practical purpose of jury selection.

To build a just and impartial jury, prospective jurors should be vetted to ensure that racist attitudes that might influence a verdict are not present. This is accomplished through the voir dire process, where the goal is to learn the truth about potential jurors by increasing the quality of information about the person that the judge and attorneys can use to determine cause and peremptory challenges—the right of the attorneys to reject a certain number of potential jurors without stating a reason. Ultimately, the jury should consist of as many individuals with antiracist values as possible, committed to administering justice according to the law. Antiracism is different than nonracism, in that an antiracist orientation demands ongoing reassessment of one's motives to ensure racial impartiality (Haeny et al., 2021). Racial justice allies, as antiracists, do not assume that defending justice will occur without personal cost, and they are willing to speak up for those with less social power in the service of fairness and equality, even in the face of social disapproval. Thus, the elimination of people holding racist views and the inclusion of as many racial-justice allies as possible on juries is critical.

Before delving into how we find racial justice allies, the different types of racial predispositions must first be defined. There are many types of racism, and an awareness of the various forms in which racism presents itself is key for this work. For the purpose of this article, we use the following terms:

- Dominative Racism: This is the traditional form of bigotry also called "old-fashioned racism." According to Kovel (1970), the dominative racist is the "type who acts out bigoted beliefs—he represents the open flame of racial hatred" (p. 54). It is unambiguous, and some examples include racial slurs or blatant acts of racial brutality.
- Symbolic-Modern Racism: People in this category embrace negative stereotypes about POC, and, for example, may believe that Blacks are morally inferior to Whites (e.g., prefer welfare to working, have criminal tendencies, are aggressive, etc.; Sears & Henry, 2003)

- Aversive Racism: People in this category support racial equality but have conflicted negative feelings toward POC, which are often unconscious/implicit (Gaertner & Dovidio, 2005). These people may make affirmative social justice pronouncements but still end up acting like racists, especially when situations are ambiguous or no one is watching. They are better identified by their actions than stated attitudes.
- Internalized Racism: This is when POC have negative feelings about other POC and believe it is better to be White (Pyke, 2010). They may harbor self-hatred, which may be either conscious or unconscious, and want to distance themselves from others in their racial or ethnic group. They may try to dress or act like "White people," and prefer to spend time with White people.
- Non-Racist Passive Bystanders: The people in this category do not actively behave in racist ways but are generally too afraid to intervene when they see racism occurring, even though they know it is wrong (Murrell, 2021).
- Racial Justice Allies: Racial justice allies are dedicated to behaving in an anti-racist manner. They make a concerted effort to promote anti-racist values such as accountability, readily engage in social risk, and relinquish racial privilege (Spanierman & Smith, 2017).

Explicit bias refers to prejudices that can easily be identified by asking people about their opinions. Implicit bias, on the other hand, refers to unconscious prejudices or prejudices that people will not reveal through a discussion of their opinions and attitudes. See Williams et al. (2020) for more information regarding racism, perpetrators of racism, and grouping of forms of racial bias.

Next, we discuss how to identify explicit racists (dominative and symbolic-modern racists, which is more straightforward), how to identify aversive racists (more challenging), how biological racism and White solidarity exert an influence, internalized racism in POC, how to find racial justice allies, and why simply asking jurors if they are racist might not be the best way to select fair-minded jurors.

Identifying Dominative and Symbolic-Modern Racists

Although for centuries racism in America was open and explicit, over time these sentiments became less socially acceptable. Symbolic racism largely replaced dominative racism as a more palatable rationale for supporting inequality. Symbolic racism proposes that negative attitudes against people of color are primarily rooted in concerns that they threaten Western worldviews by violating principles of individualism and morality. In contrast, modern racism theory posits that various forms of negative affect (e.g., fear, disgust) drive prejudice, acquired through early socialization and modeling (Sniderman & Tetlock, 1986).

There are several validated scales, developed by psychologists, that can be used to screen out these individuals such as the Modern Racism Scale (MRS; McConahay, 1986), the Color-Blind Racial Attitudes Scale (CoBRAS; Neville et al., 2000) and the Symbolic Racism 2000 Scale (SR2K; Henry & Sears, 2002). Using these tools or others like them, identifying and eliminating dominative and symbolic-modern racists within jury pools is relatively straightforward. See the Measuring Racial Bias section and Supplemental Table for information related to these and other suggested measures. Notably, in our experience, attorney-generated questions tend to focus on this sort of bias, which they may consider "implicit" but that would still fall in the realm of explicit bias in psychology.

As an example, an attorney-generated question intended to uncover implicit bias might be: "There are more Black Americans in jail today because they commit more crimes than non-Black Americans." This question is good for helping to identify both dominative and symbolic-modern racism. However, this question is not ideal for assessing implicit bias because aversive racists are more likely to be aware of the systemic racism that exists at all levels of the legal system and answer accordingly. However, many people (aversive racists, nonracists, and even racial justice allies) might mistakenly believe, assuming that owing to increased poverty and fewer opportunities, Black people are more likely to commit crimes. According to FBI statistics, Black people do appear to commit more crimes (Piquero & Brame, 2008). These statistics, however, fail to account for systematic biases throughout the judicial process as a whole. The ideal answer is "No," but if a person says "Yes," it becomes important to probe further and understand the reasoning behind their answer.

Identifying Aversive Racists

The second step is complex but is the most critical because it requires an understanding of how

more subtle incidences (acts or types) of racism affect American society, many of which most lawyers are not trained to identify or evaluate. In this step, potential jurors must be screened for "aversive racism" (Gaertner & Dovidio, 2005). In psychology, the concept of aversive racism is often coupled with the idea of implicit bias, as these racial biases may be unconscious and automatic in nature. Aversive racism can be defined as holding negative evaluations of racial/ethnic groups, which is realized by a persistent avoidance of interaction and discomfort with people of these groups. Aversive racism is characterized by a conflict between the denial of personal prejudice and negative feelings and beliefs which are often outside one's own awareness, such as social categorization.

Aversive racists include self-proclaimed "progressive and enlightened" people who deny having any biases, and as such, aversive racism is rampant in universities and feminist organizations, for example (Milkman et al., 2012; Sagar, 2019; Scott, 2005). In public, such individuals espouse antiracist thoughts, and may, for example say, "Oh, yes. You know, we need affirmative action, we need equality," but their unconscious and sometimes conscious biases lead them to act in ways that undermine racial equality. For example, aversively racist students may say that racial equality is necessary but vote against founding a Black student campus club even if it will not materially affect any of the voting students. The mere perception of a loss of power is a triggering event, and aversive racists are particularly uncomfortable with POC in superior positions relative to themselves (e.g., they would not like a Black professor, boss, or dean). Correspondingly, these individuals may act as "White Saviors"—eager to help a "less fortunate" person of color as long as the power imbalance maintains their self-image or self-esteem (Williams et al., 2021).

Apart from offering arm's-length charity, aversive racists can behave just as racist as symbolic-modern racists, particularly when they think the action cannot be traced specifically back to them. They may choose to do the right thing when they know they are being watched, but when no one is around or when the norms are not clear, they often behave in racist ways (Gaertner & Dovidio, 2005). As trials involving racism likely include some ambiguous elements, whenever possible, these people should be eliminated from a jury. As previously demonstrated in research examining the performance of aversive racists in mock jury trials, "true

racists" gave the highest ratings of perceived guilt for Black defendants, followed by aversive racists, and then "nonracists" (Ingriselli, 2015). This trend is echoed with respect to perceived prior record and sentencing judgments. Although in real hearings, judges decide on sentencing, the findings are nonetheless demonstrative of racial bias. For example, compared with nonracists, aversive racists tend to perceive a Black defendant as more likely to have a prior record and consequently be deserving of a longer sentence (Ingriselli, 2015). Further, mock jury trial research has found that Indigenous Canadian defendants receive the harshest sentencing; this is likely attributable to implicit bias, particularly given that sentence length recommendation has been suggested to be a good measure of aversive racism as it is a continuous variable, subjective, and more sensitive than a standard dichotomous jury verdict of guilty or not guilty (Maeder et al., 2014). In another study, a panel of prospective jurors found low-SES undocumented Mexican defendants to be more culpable, more likely to receive a guilty verdict, and less likely to be granted parole compared with low-SES undocumented White Canadian defendants, despite no differences based on ethnic immigrant status in ratings of the defendants on a cold/warmth scale and competence traits assessment (Espinoza et al., 2015). The behavior of the jurors in making racially biased decisions and then denying having any racial biases (by way of the cold/warmth scale and competence traits assessment) suggests aversive racism.

Unlike for the other forms of racism, there are no published written tests for identifying aversive racists. However, with an understanding of aversive racism, specific questions can be used to help locate the aversive racists within a prospective jury pool. An initial way to assess aversive racism is to look at a person's social circles, as individuals who have more diverse social circles are less prone to exhibiting aversive racism. A proxy question to assess the diversity of these social circles is to ask about close friendships. For White people, who have been socialized in majority White spaces, many will have had to make an effort to diversify their relationships as our racialized society still operates to keep races separate, and most people still live in segregated communities (Okech & Champe, 2008). For assessing aversive racism in White people therefore, asking if they have any friends of color can help to give insight into a person's social circle. These "friends" cannot simply be people they know who happen to be POC,

relatives, or even a dating partner. These should be people who they have a real personal relationship with, who they would call on for advice or who they may ask to help them out of a difficult situation, such as if they had a life crisis or a flat tire. In the case of jury selection, having one or more friends of color is a significant indicator of antiracist tendencies because 75% of White people have no friends of color at all (Cox et al., 2016). And White people are more likely to have Asian American friends before Black ones, so any close Black friends at all in a White person's life can be a positive indicator for inclusion in a just and impartial jury. For those who do not have any racial diversity in their social network as a result of living in rural or monochrome communities there are other ways of assessing aversive racism. Nonetheless, those with homogenous social circles (for whatever reason) cannot be expected to have a good understanding of people in other racial groups, beyond what they might see in movies or social media, which tends to portray Black people and other people of color in negative and stereotypical ways (Dixon, 2019).

What every psychologist knows, but also noted by Rapping (2013), is that "the best predictor of what a person will do in the future is not what they say they will do, but what they have done in the past in analogous situations" (p. 1034). For this reason, simply asking about attitudes or future plans will not capture aversive racists, who will give answers that are socially desirable in accordance with their proclaimed progressive beliefs. As such, the next class of questions one might ask to help identify aversive racists would be: "Think of a recent time that you saw a Black person being mistreated. What did you do?" If they did not do anything, a follow-up question could be, "What do you wish you had done, and why didn't you act that way when you saw it?" Explicit racists, who have hopefully already been identified and subsequently eliminated, might give a reply in the vein of, "Oh, I've never seen a Black person mistreated (if they were treated badly, they deserved it)." Racism is everywhere, so this kind of answer indicates that the person should not be selected as a juror owing to an inability to acknowledge the reality of racism. Likewise, another similar question could be, "Have you ever heard anyone at your workplace say something racially insensitive to a Black person (or other person of color if there are no Black people in your workplace). What did you do?" A similarly revealing question which is independent from local racial

composition of a population is to ask the potential juror simply to "Describe your most significant interaction with a member of another race" (Rapping, 2013).

Aversive racists would instead say that, yes, they have seen a Black person being discriminated against or disrespected, but generally they will not have intervened except in situations where there was very strong social pressure to do so. It is also quite possible they have never intervened on behalf of a person experiencing racism. When asked why not, they are likely to present an excuse or self-justification for the lack of taking any action. Likewise, a nonracist bystander might say that the situation was confusing or frightening, so they offered help to the Black person after the fact (presumably once there were no White people watching to judge them). What helps to identify aversive racism in such situations is the discrepancy between their stated ideals and the explanation for their actions when under scrutiny.

In considering such instances, an attorney/judge should examine whether there might be a mitigating reason for the potential juror's failure to act. For example, if the person expresses a self-awareness response such as, "I was really afraid of what other people would think, and that's why I didn't do anything. But, I've noticed that this is my own character flaw and I'm working on it." Such a response is actually a negation of aversive racism, as it shows capacity for self-reflection, vulnerability, and a willingness to learn, and so this person can be selected for an impartial jury. However, if the potential juror responds in a self-justifying way, or gives an answer close to, "I don't know why I didn't do anything," this is a demonstration of low self-awareness and is indicative of poor candidacy for a jury.

A potential juror may have lived and worked in an area where there are no Black people. In such a situation, a suitable question can be crafted based on what they did when they saw other types of racist behaviors, for example, "Have you ever told someone you didn't appreciate a racist joke or comment? What did you say to them and why?"

It is important to note that these questions should be taken as examples of how to separate aversive racists from explicit racists but cannot be used in isolation to gain the full measure of aversive racism of an individual. When considering validated scoring systems to use in identifying aversive racism, the computer-administered Black-White Implicit Association test (BW-IAT; Greenwald et al., 1998)

or the Single Category IAT (SC-IAT; Karpinski & Steinman, 2006), may prove useful, especially when used in concert with the aforementioned questions (see Table 1 and Supplemental Table). Notably, there have been some critiques of the IAT, addressed later in this article.

Biological Racism

One of the most subversive false beliefs that underpin all of the aforementioned types of American racism, including aversive racism, is the idea that there are meaningful genetic or biological differences between races. Societies have different paradigms about the meaning of race which contribute to the confusion surrounding the term. In some geographical locations, there are sub-clusters of humans within a larger population that can delineate humans into genetically distinct groups (Benn Torres, 2020). However, the way in which these groups are genetically distinct may not include shade of skin, but rather an immune response, genes for milk digestion, or other subset of genes or short stretch of common DNA. More importantly, these human subclusters are not identical with the term "race."

Therefore, although the shade of one's skin (e.g., or a trait such as height) clearly may be influenced by genetic factors, to be categorized as Black or Hispanic or Asian in America are social categories (unlike height), loosely having to do with skin shade but without genetic meaning related to intelligence, morality, vigor, pain sensation, or even relatedness. Owing to centuries of admixture (Bryc et al., 2015), two random persons with equally light or dark skin will not be as genetically related to each other as a White mother to her Black daughter who share 50% of their genes, and yet U.S. society would call them different races. People categorized as "Black" in America on average have 25% European ancestry but can have up to 90% European ancestry (Bryc et al., 2015). The concept of race has also been shown by numerous publications to be generally inconsistent with patterns of global human genetic diversity (e.g., Gravlee, 2009; Yudell et al., 2016, 2020).

It is the U.S. Census Bureau that defines racial categories, not science, and these are regularly changed based on social perceptions (e.g., Hispanic was once a "race" but now is not). The construct of "race" is nonbiological, rather based in social, political, economic, historical, and cultural contexts, making it changeable across time and space (Benn Torres, 2020; Yudell et al., 2016, 2020). Race should rather be understood as lived experiences that can have measurable impacts on the physical self (Benn Torres, 2020). The societal grouping of individuals into "race" influences health, physical and mental outcomes (e.g., lead poisoning of a class of people). This means that we may see common physical, psychological, or mental differences between people who have been grouped together by skin shade into "races," but these differences have nothing to do with any putative genetic relationship of these individuals to one another and (unless they are associated with exposure to sun) these traits or group differences are not normally linked to genes having to do with shade of skin.

Racism rooted in biological causes is acquired and primarily aversive in nature. Understanding the way in which aversive racism is learned demonstrates how it is connected with biological racism. Aversive racism can be seen as a three part process which is learned in childhood (De Franca & Monteiro, 2013; McGillicuddy-De Lisi et al., 2006). The first step is learning that explicit bias in the present day and age is generally socially unacceptable. The second part is learning to advantage one's own in-group, but only if it cannot be noticed. The third step is to hide this very decision-making process, and to carry it out without acknowledging to oneself or others that it is occurring, ultimately to protect oneself from reprimand, blame, or punishment (De Franca & Monteiro, 2013). The social inacceptability of explicit racism is then covered by any plausible lie. Biological racism is most often aversive because it allows the perpetrator to hold up a "plausible" reason for explicit bias. This is how the widely held untruth, that there are biological differences between races, sociologically gives individuals (in America) the latitude or perceived "permission" to hold racist viewpoints. The process of seeking permission to hold a racist viewpoint is an aversive behavior because it is an attempt to place the stigma of choosing racist behavior at arm's length.

The truth is that although race is a social and not a genetic construct (Cooper, 2013; Gravlee, 2009; Haeny et al., 2021; Krieger, 2000; Mohsen, 2020; Yudell et al., 2020), many Americans obsessively affix genetic meanings or give "natural" designations to race which are not borne out by science. Therefore, when designing questions to unearth aversive racism, questions about genetics may help ascertain the racial bias of a potential juror. A validated scale focused on racist beliefs about genetics

has not yet been developed, although a few such questions appear on the Symbolic Racism Scale 2000 (SR2K; Henry & Sears, 2002). Questions that will help to unearth biases based on misunderstanding genetics, however, might include questions such as, "Certain races/ethnicities are genetically/naturally more intelligent than others," or "Black people naturally feel less pain than other races," or "There is probably a genetic reason for IQ test differences between Asians and Whites." Legal teams should choose those individuals who reject associations between race and intelligence for the jury.

In considering questions connecting biology or genetics with race, it may also be possible to separate intellectual aversive racists from intellectual racial justice allies. Intellectual antiracists have almost always intensely grappled specifically with this hurtful and damaging myth for their own self-enlightenment and will immediately and vehemently reject the premise of the question. Aversive racists are likely to want to play with the concept and find nuanced ways of considering how it might be true. These people should not be selected for an impartial jury. Unfortunately, because of the widespread falsehoods about the association between genes and race, there may be fair-minded individuals who believe that race is more a biological than social construct. Such persons will be able to accept new information. However, when considering jury selection, it will be those individuals who have fought themselves free of these pervasive myths about genes and race that will make better jurors.

Non-Racist Passive Bystanders and White Solidarity

Group dynamics are critical to the jury deliberation process, and one issue that should not be underestimated is the power of in-group solidarity. As applied to White people, in-group solidarity or White solidarity represents a potent social force that is directly relevant to the group dynamics of the jury deliberation process.

Unspoken social forces teach White Americans that they should never point out another White person's racism, and that they should always side with a White person over a person of color (DiAngelo, 2018). These schemas operate outside of awareness for most White people, and only when they attempt to break White solidarity do they realize the powerful pull it exerts. They may lose their "White" status in the eyes of their peers and be considered a race

traitor (e.g., McKinney, 2006). Even White social justice advocates have found themselves inexplicably tongue tied when they witness racism happening right in front of them; they know the right things to do and say but cannot translate that into action (e.g., Reed, 2019; Williams et al., 2021). Although almost any person can buckle under pressure to maintain group solidarity, these nonracist bystanders, largely defined by their inaction, are particularly susceptible (Murrell, 2021).

Williams and colleagues (2021) designed a study that allowed White participants to express positive or negative thoughts about racially-charged events to a neutral White conversational partner (study confederate instructed to agree with the participant). Critically, these published experiments provided the data resulting in one of the validated scales recommended in the section Measuring Racial Bias in this article. The White participant knew the conversation was being recorded by a Black research assistant, witnessing the exchange in a nearby room (Kanter et al., 2020; Williams et al., 2021). Three conversational topics were provided about racially charged events from the news. The results showed that only 3.2% made racial allyship statements in all three scenarios, 9.7% in two of the scenarios, and 16.1% in one scenario. The vast majority made no clearly supportive statement at all. This experiment demonstrated that despite allied intentions and even with knowledge that a Black person is watching, White people still do not behave like the allies they may aspire to be. It was observed that White people had a hard time speaking out against racism to another White person, even for those who had filled out a questionnaire indicating socially just intentions, and even when they knew a Black person was watching. Likewise, White jurors may be less likely to speak out against racism even if there are POC in the room so long as they are in the presence of other White people, and especially if the person whom they are calling out or to whom they are addressing their antiracist comments is another White person.

There are some who are functionally similar to nonracist bystanders but are operating from fundamentally different motives. In some cultures, there is a heightened expectation surrounding agreeableness, interpersonal civility, and harmonious relationships. For example, among most Asian American communities there is an emphasis on minimizing social disharmony or emotional expressions that may disrupt group cohesion (Wei et al., 2013). In

these cases, jurors may choose to agree with the group even if they disagree personally.

Jurors of Color and Internalized Racism

Another important step is to make sure that inclusion and exclusion of jurors is not solely based on skin color. Including jurors simply because they are a person of color does not mean that they will act in an antiracist way (Leippe et al., 2021). This is because, owing to pervasive racist social messages, POC may also harbor negative stereotypes and implicit racial biases about other ethnoracial groups or even their own group. For example, research shows that people of East Asian heritage have on average just as much implicit bias toward Black people as non-Hispanic White Americans (Gran-Ruaz et al., 2022), and even Black people can have internalized anti-Black racism (Pyke, 2010). This problem appears to be particularly common among POC who had White parents (Pyke, 2010; Steketee, 2019). A measure of the potential juror's ethnic identity, as informed by a validated psychological instrument, is an excellent approach to identify such individuals. If a Black person is at a very early stage of their ethnic identity development, societal racism may manifest as self-hatred or internalized racism (Priest et al., 2014). Such an individual will want to demonstrate that they are not like "other" Black people and, as a result, they may act in concert with symbolic-modern or aversive White racists because they have unconscious anger and hatred toward their own groups and wish to be accepted by White people (Pyke, 2010).

The Multigroup Ethnic Identity Measure (MEIM-12) is a valid and reliable measure of ethnic identity and can be used for assistance in identifying such individuals, with respect to their feelings about their own group (Roberts et al., 1999). We do also know that people with more stigmatized identities tend to be more likely to be racial justice allies (Williams & Sharif, 2021).

Some questions that can help identify people with internalized racism are ironically represented in measures of symbolic-modern racism. One good question is: "Is race an impediment toward getting ahead in America today?" which research has shown is indisputably true (e.g., Bertrand & Mullainathan, 2004; Kraus et al., 2017; Kwate & Goodman, 2014). Not wanting to be seen as the recipient of social charity and not believing that there are real obstacles based on race, often these Black people will have had some success and present, as proof

that anti-Black racism no longer exists. They tend to overlook how race limits their own and others' opportunities and will be overly judgmental toward Black people who they deem have failed in society (e.g., Khalifa, 2015). Another good question to help identify people with internalized racism is: "I have never suffered as a result of racism." National statistics show that the vast majority of racialized people have experienced racism and suffered as a result of it, but there are always a few who deny this has happened to them (Horowitz et al., 2019; Kline et al., 2021). Such persons might agree that others have experienced racism, or that they have seen racism, but it is too threatening to their sense of self to admit they have been harmed by it. As such, these people will make poor jurors in cases that involve race as they may be unsympathetic to the racialized suffering of others (e.g., Khalifa, 2015).

Identifying Racial Justice Allies

An ideal candidate for an impartial and just jury is a racial justice ally. As previously noted, many people who think they are allies do not act as allies, and so again, actions are key when ascertaining who is actually a true ally. White allies are as amenable toward POC as they are toward White people, and this orientation shows in every aspect of their lives (e.g., Williams & Sharif, 2021). When this sort of person is asked if they have seen racism happening and what they did when they saw it, they might offer something like, "Yes, I saw this happen just last week and here's what I did... I told the cashier, no, I'm sorry. Actually, this woman (a woman of color) was in line in front of me. She needs to be helped first." This response is an example of racial allyship; it shows that the person has an awareness of how subtle racism may manifest in everyday situations, and the person has the courage to do something about it, even in a public situation. Racial justice allies will have done purposeful work to eliminate racism from their approach to life and should be able to describe key actions and turning points in this process (Sue et al., 2019). A good question to ask in this vein would be something along the lines of, "What kinds of things have you done to eliminate racism in your own thinking and actions?" Due to an active antiracist mindset, such a person would be ideal to include on a jury. Owing to the scarcity of racial justice allies, it is not likely that 12 of such persons might be found for a jury (e.g., Williams et al., 2021). However, if two or three can be included, their heightened sense of

justice will positively influence the other jurors as long as the other jurors are not dominative or symbolic-modern racists. Measures such as the validated Interpersonal Racial Allyship Scale (IRAS; Williams & Sharif, 2021) can prove useful in identifying White racial justice allies.

Should One Ask "Are You a Racist?"

Finally, it is not helpful to directly ask how jurors feel about racism or if jurors self-identify as racist (e.g., Rapping, 2013). Most people will not admit to carrying racist opinions or beliefs for fear of social consequences, because overt prejudice is stigmatized (De Franca & Monteiro, 2013; Newman et al., 2020; Stein, 2016). Even White nationalists, such as mass-murderer Anders Breivik, often do not admit to being racist, but instead claim that they are trying to protect their culture and way of life (Kendi, 2021). In another example, David Duke, a former Ku Klux Klan member and neo-Nazi who has repeatedly displayed racist behavior, says he is not a racist, asserting that he does not hate Black people, rather he represents "the very opposite of racism" and only wants to defend his White heritage (Duke, 2016; Newsweek, 2017). Those who do admit to being racist are largely the more antiracist people who have realized that they have been badly programmed by society and are trying to work it out of their consciousness. These potential jurors should be considered for inclusion rather than hastily eliminated, as long as they can give a good explanation of what they mean by self-identifying as racist and indicate that they want to do the right thing.

Measuring Racial Bias

How can psychologists and legal professionals ascertain who is harboring racist attitudes? Validated measures of racist attitudes enable us to move from anecdotal evidence to scientific evidence of racism. The questionnaires listed here are designed to identify bias from which one can predict behaviors. As social norms about being labeled a racist have changed over time, it has become anathema to be called or known as a racist; however racially driven attitudes and thought patterns continue to exert an influence (Stein, 2016). Not only does society hide its racist behavior from overt labels, individuals hide their racism from themselves. Even the science of measuring racism is fraught with unwelcome emotional weight and subject to extreme scrutiny and attack (Roberts et al., 2020). The development of validated scales in psychology for racial attitudes has itself been challenging. For example, the new validated IRAS was originally rejected by a journal editor after being accepted by the reviewers, not on the basis of the data or its significance but because the White editor personally did not think the scale was useful (it was later published by another journal). No one wants a survey to find hidden racism in themselves. Nonetheless, this is exactly what these measures do.

The scales in Table 1 represent examples of validated questionnaires that can uncover different types of racial intolerance and prejudice. The psychometric properties for each measure have been established using all items, and, although we have provided examples of some of the questions previously to illustrate individual concepts, the entire scale must be administered for valid results. It is important to stress here that it is not recommended to pluck individual questions from the measures and assume the answers from a hodgepodge of questions will result in a numerical score that will produce an interpretable level of racism of an individual. Proper use of a test will give information that allows the tester to assess whether the potential juror is outside the norm with regard to racial attitudes, as compared with similar others.

The first three scales, the Color-Blind Racial Attitudes Scale, the Symbolic Racism 2000 Scale and the Modern Racism Scale are designed to detect modern and symbolic (explicit) racism. These scales were developed in 2000, 2002, and 1980, respectively. The advantages of these scales is their wide use in the literature; however, because the questions are (to many aversive racists) obviously designed to assess racism, these individuals can hide their biases by giving what they consider socially acceptable answers. The Multigroup Ethnic Identity Measure is a scale developed in 1986 used rather to explore internalized racism in racialized individuals; it was originally validated in adolescents, which is when ethnic identity is thought to develop, but it has since been validated in adults as well (Williams et al., 2018). It gives a good assessment in multiethnic individuals, but a disadvantage is that it is not recommended for White individuals. The Black-White Implicit Association test is used to detect aversive racists but there are several disadvantages to this scale including the controversy surrounding how much of scores are attached to

Table 1
Validated Scales Measuring Various Types of Racism and Related Constructs

Racial scale	Information provided by scale
Color-Blind Racial Attitudes Scale (CoBRAS; Neville et al., 2000) is a 20-item measure of participants' beliefs that racial dynamics are not important and that institutional and other forms of racism do not exist. Items are rated on a 6-point scale ranging from 1 (*Strongly agree*) to 6 (*Strongly disagree*). The CoBRAS consists of a total score and three subscales (Unawareness of Racial Privilege, Institutional Discrimination, and Blatant Racial Issues).	A higher total score on the CoBRAS is related to greater levels of racial intolerance and racial prejudice against Black people and a belief that the world is just and fair.
Symbolic Racism 2000 Scale (SR2K; Henry & Sears, 2002) is an eight-item, revised version of a prior measure of symbolic racism which combines negative affect towards Blacks with particular beliefs, such as that Black people violate cherished American values like hard work and taking responsibility. Sample items include "it's really a matter of some people not trying hard enough; if Blacks would only try harder they could be just as well off as Whites" or "over the past few years, Blacks have gotten less than they deserve." The response set for the SR2K varies across items.	The SR2K Scale predicts opposition to interracial marriage and Affirmative Action, erroneous beliefs about racial genetics, and disgust towards Black people (even after controlling for conservative ideology; Brown et al., 2009). Higher scores indicate more racist attitudes.
Modern Racism Scale (MRS; McConahay, 1,986) is a seven-item self-report measure of explicit contemporary prejudicial attitudes toward Blacks (e.g., "over the past few years, Blacks have gotten more economically than they deserve"). Items are endorsed on a 5-point scale from 1 (*Strongly Disagree*) to 5 (*Strongly agree*), with one item reverse scored.	Higher scores are indicative of greater prejudice towards Black individuals. The scale is strongly correlated with old-fashioned racism, discrimination, and propensity to commit microaggressions (Kanter et al., 2020).
Multigroup Ethnic Identity Measure (MEIM-12; Roberts et al., 1999) contains 12 items about ethnic identity and one's affirmation, belonging and commitment to their ethnic group, with three additional fill-in questions about race. Sample items include "I have a clear sense of my ethnic background and what it means for me," and "I am active in organizations or social groups that include mostly members of my own ethnic group." The scale has been validated in adults and adolescents of various ethnic groups with excellent reliability. However, it is not recommended for use with White Americans.	Useful in identifying internalized racism in POC, as lower scores indicate more disdain for the person's ethnic group. Lower scores are also correlated with spending less of their free time with people from their own ethnic group (Williams et al., 2012).
Black-White Implicit Association test (BW-IAT; Greenwald et al., 1998) is a widely known online measure of unconscious biases towards Black and White people (esp., aversive racism). The test consists of seven blocks, taking 10 minutes to complete. It is believed that the easier/faster it is for test-takers to categorize a race with an evaluation, the more closely aligned that association is to implicitly held attitudes. Of note, there are additional versions available for other race-comparisons.	The BW-IAT appraises test takers' relative association strength in pairing a target race (i.e., White or Black faces) and positive/negative evaluations (i.e., good or bad). It is believed that the easier/faster it is for test-takers to categorize a race with an evaluation, the more closely aligned that association is to implicitly held attitudes. Scores of/close to *zero* suggest little/no preference for either racial group. Like the BW-IAT, optimal jurors have scores close to zero for the SC-IAT.
BW-IAT effects must be interpreted relatively. For example, if a test taker's results indicate a "moderate automatic preference towards White people," this does not translate to evaluating White people positively and Black people negatively. Instead, this score demonstrates a participant's preference for White people over Black people only. The Single-Category IAT (SC-IAT; Karpinski & Steinman, 2006), is an alternative, where a single race is paired with positive and negative evaluations. Meta-analyses examining how well IAT scores predict racist behavior seem to yield conflicting results (Greenwald et al., 2009, 2015; Oswald et al., 2013). For IAT use in jury selection, some key opinion leaders promote its use (e.g., Larson, 2010), whereas others are more cautious (e.g., Roberts, 2012).	
The Interpersonal Racial Allyship Scale (IRAS; Williams & Sharif, 2021) is designed to quantify interpersonal racial allyship tendencies based on responses to hypothetical racially-charged scenarios. Test-takers are provided a series of potential statements one might make in that situation, (e.g., "no law enforcement officer should shoot an unarmed person under any circumstances"). Respondents were asked to report how likely they would be to do or say each response (or something similar) on a 5-point scale from 1 (*Very unlikely*) to 5 (*Very Likely*). Items are summed for a total score.	The 10 items demonstrate inclusion, advocacy, concern, and assistance toward Black people in various situations, with higher scores indicating stronger allies.

Note.   POC = people of color.

meaningful behavioral indicators (e.g., Schimmack, 2021). The Implicit Association test furthermore requires a great deal of focus and concentration, and as such it is subject to error if participants are distracted. However, it is presently the best-established way to identify aversive racism.

Finally, the recently validated Interpersonal Racial Allyship Scale mentioned earlier in this article is a scale designed to quantify actionable and behavioral components of interpersonal racial allyship. In particular, this scale was designed specifically to both predict behavior and attitudes, based on observations in experimental studies, and that is why this particular scale seems to be well-suited to the issue of jury selection.

All of the scales in the table have been validated and used in several peer-reviewed publications (e.g., Kanter et al., 2020; Williams & Sharif, 2021). Although these measures have not been specifically tested for use with jurors, they should still be effective because jurors are a cross section of America.

The measurement scales cannot be used if the scoring methods for the scales are not understood. Table 1 lists each scale and describes its scope of use and with which groups results are valid. Evaluators must understand the scoring and know how to make sense of the scores to use the scales for jury selection. For the validated tests, the task of evaluating a juror is straightforward and numerical with basic arithmetic and does not require the rater to have cultural competency. However, the interpretation of open-ended questions should ideally be carried out by a psychologist with training in culturally informed practice. The Supplemental Table contains data on the measures described in this article, along with their means by ethnoracial group in adults. It is recommended that jurors being screened for racial bias should have scores within a standard deviation or below the standard deviation from the scale mean for their group on measures of racism. Scores above a standard deviation will represent individuals who are more racist than average and therefore will not make ideal jurors. For the MEIM-12 and IRAS, it is recommended that scores should be within a standard deviation or above from the mean. For implicit association tests, ideal scores are close to zero.

Discussion

In the United States, there has been a tendency to rely on a person's race or self-reported attitudes to screen for racism in prospective jurors, but these approaches tend to miss aversive racists, who need to be asked questions about their behaviors rather than their attitudes. Also missed are people with internalized racism, who are assumed to be antiracist simply because they are POC. Complementarily, efforts to identify racial justice allies should be used to identify jurors who are able to approach their duty in a self-aware, antiracist manner.

Is the Jury Selection System Broken?

In reading this article, some may conclude that the fundamental assumption of this article is that jury selection, as it is currently constituted, is fundamentally broken. These individuals may then wonder whether measurement tools such as the scales described herein could be a work-around for that broken process. The jury selection process, however, can only be as antiracist as the individuals in the system. There is a need for a more people-centered approach to creating positive change. It has become increasingly clear from our ability to film everyday encounters between police and citizens, (e.g., Kahn, 2020), that America has ongoing issues with unresolved racial animosity. Prosecutors and defenders are intensely interested in finding out the viewpoints of jurors, particularly with regard to political viewpoints, as these can indicate their attitudes toward race and criminality. Others may posit that asking jurors questions about race may prime them to overconsider race in a trial, negatively influencing objectivity, even if the trial is presumably not about race (*Pena-Rodriquez v. Colorado*, 2017). But the race of the actors is itself a prime.

Further, race in the United States is as much a political as social category, and racist animosity can be directed at anyone for their political views regardless of their race (Dai et al., 2021; Schildkraut, 2019). As such, race as an issue is affecting the thought patterns of individuals toward one another, even if two individuals are the same race. Race is a well-known factor in the decision-making process of jurors because attitudes about race are woven into the general fabric of social life in America and are habitually used to make snap judgements about the guilt or innocence of individuals (Horowitz et al., 2019; Leippe et al., 2021; Maeder et al., 2014). As illustrated by the many examples described in this article, attorneys already use this knowledge to find jurors who, regardless of their willingness to

do justice, will decide for or against their client, whereas the goal should be to find justice-minded jurors for a fair outcome.

Knowing implicit bias is a problem is only the first step. There are four central strategic points for jury selection which should be envisaged when distilling the various aspects of racism in a population that consciously and unconsciously hides its bias. These are:

(1) Find and eliminate all explicit racists (dominative, symbolic-modern)
(2) Minimize the number of aversive racists and passive bystanders, looking to behaviors rather than stated beliefs to identify them
(3) Include as many racial justice allies as possible
(4) Ensure that the POC selected are racial justice allies and are not high in internalized racism

We recognize that some legal teams may apply the information herein to use peremptory challenges to eliminate individuals who are bias-free and select racially biased jurors because such bias may benefit their client's claim or defense. Given that peremptory challenges are already being used in this way (DeCamp & DeCamp, 2020; Eisenberg, 2017; Semel et al., 2020), our hope is that informing professionals about various types of racism and how to better identify it will be used to remove racism from jury selection rather than further advance it (Levinson et al., in press). As such, this information should be widely available, in the hopes that it will be used to create positive change in the justice system.

Implementation Issues

For the many reasons discussed here, the issue of implicit racial bias in the judicial process is an ongoing concern (Su, 2020), and there has been a push among judges and lawyers alike to address this issue through the development of a specialized jury instruction to address implicit racial bias (e.g., see U.S. District Court for the Northern District of Iowa, the California model Instruction, and the Criminal Justice Section of the ABA; Elek & Hannaford-Agor, 2013). Some concerns have been raised regarding the use of specialized jury instructions, namely that they may elicit a backlash effect from some jurors, which may in turn exacerbate

preexisting racial biases (Elek & Hannaford-Agor, 2013). However, explicit jury instructions may not be effective at targeting implicit biases as biases are usually deeply entrenched and may be outside of conscious awareness. Thus, others have recommended the use of tools designed specifically to assess implicit bias, such as those described in this article (e.g., Larson, 2010).

Although some judges may not permit use of scales at present, there are examples of longer questionnaires used in certain cases which can be pointed to as a precedent. For example, in *State v. Tensing* (2017), a case involving a police shooting of an unarmed Black man, the juror questionnaire was 24 pages and contained 194 questions, including the following items: "Is there any racial or ethnic group that you do not feel comfortable being around?" and "Some races and/or ethnic groups tend to be more violent than others." Further, most of the questionnaires proposed in this article are only one page, and they are multiple choice which is much quicker for jurors to complete than those requiring written responses. Although computer-based implicit bias testing is not yet standard practice in jury selection, Bennett (2010) suggests that courts could administer implicit racial bias tests to take the burden off attorneys and judges and also to prevent their own implicit biases from impacting jury selection. If the judge will not permit the use of the IAT, Levinson and colleagues (in press) have devised a juror questionnaire using the principles discussed in this article to identify aversive racists, although the questionnaire itself is not a validated scale. As the importance of checking biases and the methodology as to how to do so becomes more salient, greater acceptance of these tools should follow, and so having the scientific foundations accessible becomes increasingly important.

An additional question that might arise is if the approaches described herein might select for anti-racist jurors who are prejudiced in some way against Whites (anti-White racists). The validated scales, however, have been shown to measure racial attitudes which then lead to actions. They will select people who are more fair-minded and who (as antiracists) are less inclined to make judgments based on anyone's race (Bourabain & Verhaeghe, 2021). It is also worth noting that if a potential juror is not selected because they are deemed too biased for a specific case based on the results of one or more tests or open-ended-questions, it does not mean they are a bad person. All of us have biases as a result of our socialization

process. However, it could create a good opportunity for such potential jurors to reevaluate their viewpoints and approaches toward racialized individuals. Further, racial attitudes are malleable, and with training and more exposure to people in racial out-groups, attitudes can change such that people who may have been ill-suited for jury duty due to biases could later serve impartially (e.g., Williams et al., 2020).

It is also worth considering power and group dynamics in the role that jurors play. Many people are aware that a woman and man can say the same words in the same way, but they will be perceived and acted on differently because of how we are socialized to react (e.g., Boidron et al., 2016; Salerno & Peter-Hagene, 2015). A man's words are heard and often taken more seriously than a woman's (Hancock & Rubin, 2015). It is unfair and as a society we may be working to change this, but it is important to possess this knowledge and use it accordingly in situations where perceived power makes a difference. Perception of race plays a role in group dynamics and should be taken into account. Likewise in a jury of primarily White Americans, owing to years of socialization, a White male will be listened to and taken more seriously than a person of color or a woman, especially when advocating for people of color (Boidron et al., 2016; DiAngelo, 2018; Hekman et al., 2017).

Simply having selected an antiracist jury is not the end of the process. Although beyond the scope of this article, once a jury is selected, additional interventions can be implemented to help focus jurors on remaining racially impartial, and conscientious lawyers should implement these practices when warranted, including jury training in implicit bias (Expert Advisory Group, 2015; Lee, 2015; Rapping, 2013). Few lawyers are equipped to do this work, but one resource working to improve training for lawyers is Gideon's Promise (www.gideonspromise.org), and because of their specialized training, psychologists should be involved as much as possible.

Conclusion

Ensuring equitable access to justice is a challenging but essential task for the justice system and society as a whole. Although there are scientific tools and validated methodologies for measuring all manner of overt and hidden racial biases in individuals, there is a relative lacuna of literature on managing racism in jury selection and little systematic use of current psychology and social science measures in addressing this important issue. It is hoped that this article, which brings together the current legal approaches with the latest relevant tools to detect racism, can serve as a springboard for psychologists and legal professionals who care about equity and justice and want to improve their understanding of the nuances of racism in jury selection and use social science tools to navigate this terrain. These tools and concepts can likewise be applied to hiring tasks when impartiality is critical, such as police, prosecutors, defense attorneys, corrections officers, reintegration workers, educators, and the like.

Racial prejudice and implicit bias distort the ability for everyone to live in a just society and undermine the principle of equal treatment under the law. Getting better at identifying antiracist and equity-minded jurors brings us closer to the dream and promise of a just society. We hope this article will inspire the development of more tools for identifying bias (such as the development of validated questionnaires for detecting aversive racism) and better training for legal professionals on racism in jury selection to ensure a systematic treatment of these issues to make the justice system fairer for all.

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Supplementary Table: *Measures to Assess Racial Bias with Means and Standard Deviations*

Measure	Study Participants	White American	Latinx/ Hispanic American	Black / African American	Asian American
CoBRAS mean is avg. total score	Psychology students at a large Midwestern University in the US (Awad et al., 2005)	M=68.48 (12.58), N=318	-	M=56.16 (10.38), N=134	-
	Counselling psychology graduate programs across the US (Chao et al., 2011)	M=45 (15) N=255	-	-	-
	Community sample of Asian American adults (Keum et al., 2018)	-	-	-	M_{female}= 49.97 (13.79), N=231 M_{male}= 52.19 (13.14), N=113
SR2K mean is avg. item score	1997 LACSS, where scale mean is the average of symbolic racism items recoded to 0-1 scale, N=647 (Henry & Sears, 2002)	M=0.40 (0.16), N=277	M=0.34 (0.15), N=206	M=0.24 (0.19), N=64	M=0.44 (0.12), N=59
MRS mean is avg, total score	Psychology students at a large Midwestern University in the US (converted from item means for ease of use) (Awad et al., 2005)	M=15.47 (5.11), N=318	-	M=11.55 (3.64), N=134	-
	Adults throughout the US who completed the BW-IAT (Gran-Ruaz et al., 2022)	M=12.39 (4.52), N=9840	$M_{non-White}$= 12.86 (4.35), N=1363 M_{White}=13.05 (4.63), N=917	M=11.37 (3.72), N=1833	$M_{East Asian}$=14.10 (4.63), N=522 $M_{South Asian}$=12.84 (4.36), N=408
MEIM-12 mean is avg, total score	Nationally representative survey sample (Williams et al., 2018)	NA	-	M=35.50 (8.02), N=242	-
	5,239 students from south-eastern university; avg age 20.7 years (Feitosa et al., 2017)	NA	M=45.84 (8.04), N=717	M=46.44 (8.64), N=514	M=45.72 (9), N=270
IRAS mean is avg total score	White college students in Seattle, N=987 (Williams & Sharif, 2021)	M_{female}= 35.24 (6.49), N=628 M_{male}= 31.35 (6.57), N=359	-	-	-

Note: M = Mean (average), SD = Standard Deviation (in parenthesis), N = Number of Participants.
CoBRAS=Color-Blind Racial Attitudes Scale, SR2K=Symbolic Racism Scale 2000, MRS=Modern Racism Scale,
MEIM-12=Multigroup Ethnic Identity Measure, IRAS=Interpersonal Racial Allyship Scale.

It is recommended that jurors being screened for racial bias should have scores within a standard deviation or below from the scale mean listed for their group on measures of racism. Scores above a standard deviation will represent individuals who are significantly more racist than average and therefore will not be unbiased jurors. For the MEIM-12 and IRAS, it is recommended that scores should be within a standard deviation or above from the mean listed. To find racial justice allies, scores for the IRAS should be 43 or higher, which corresponds with racial justice allyship behavior in the real world (Williams et al., 2021). As White people tend to have different perceptions about the meaning of ethnic

identity compared to people of color, the MEIM-12 is not recommended for White individuals (e.g., research shows that the MEIM-12 is not as predictive of positive mental health for White people; Williams et al., 2012).

For the BW-IAT, final scores range between -2 and 2 with positive total scores suggesting an implicit preference towards White people, and negative total scores suggesting an implicit preference towards Black people. Scores of/close to zero suggest little/no preference for either racial group. Further, these total scores exist on a continuum of preference strength, where ±0.15 is "slight" preference, ±0.35 "moderate" and ±0.65 "strong" (Lee, 2016). This measure is recommended to identify implicit bias, eliminating jurors with scores indicating moderate or greater bias (greater than 0.35 or less than -0.35). Optimal jurors have scores close to zero. The SC-IAT is recommended over the BW-IAT, eliminating jurors with scores indicating moderate or greater bias (greater than 0.35 or less than -0.35). Likewise, optimal jurors have scores close to zero.

Source: Faber, S. C., Strauss, D., Gran-Ruaz, S., La Torre, J., Bartlett, A., Faber, I., Levinson, A., & Williams, M. T. **A call to use psychology for anti-racist jury selection**. *Practice Innovations.*
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